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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

ADMINISTRATIVE SERVICES DIVISION  
U.S. DEPARTMENT OF THE INTERIOR

In the Matter of )

Primary Station Status for )  
for Television Translator Stations )

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To: The Commission

**Petition for Rulemaking**

The law firm of Joseph P. Benkert, P.C., on behalf of its clients who are licensees of television translator stations, and who plan to apply for authorizations for new television translator stations in the forthcoming filing window,<sup>1</sup> respectfully petitions the Commission to amend its rules to accord television translator stations primary status equivalent to that accorded Class A television stations. Translator stations and applications should specifically be given priority over other Auxiliary Broadcast Services and translator and LPTV facilities providing wireless internet service as their primary service.

**I. Background**

Television translator stations retransmit the signals of full service stations to populations isolated by distance or terrain. Translator stations operate on a not-for-profit basis, and typically have a very limited support base because the isolated populations they serve are small.

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<sup>1</sup> See Notice and filing Requirements Regarding July 31 through August 4, 2000 Limited Low Power Television/Television Translator/Class A Television Auction Filing Window (Report No. AUC-00-81-1), 2000 FCC Lexis 3240, DA 00-1383, June 23, 2000.

For almost two decades, the ability of translator operators and would-be operators to apply for new stations to bring additional free, over-the-air, television service to remote populations has been hampered by, for example, floods of speculative LPTV applications, freezes on the filing of new LPTV and translator applications, limitations on the number of applications which might be filed, and failures of the Commission to open filing windows for years at a time. Now translator stations face encroachment on their allotted bandwidth and displacement due to the assignment of HDTV channels to full service stations, reallocations of channels 52 through 69, and the institution of wireless internet service and two-way data communications over LPTV and translator facilities and potentially other auxiliary broadcast facilities.

While the Commission is seated in Washington, D.C., amidst and urban population Center in excess of 4.65 million;<sup>2</sup> there are many areas of the country which are still very rural and sparsely populated, and where the geography does indeed make the Appalachians look like foothills. There are still many areas in the country where an individual could drive the same distance from Washington, D.C. to Boston yet pass only the occasional small town.<sup>3</sup> The Commission must not forget this country's rural citizens, and must assure that free, over-the-air television service is preserved for them.

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<sup>2</sup> See <http://www.census.gov/population/estimates/metro-city/ma98-03b.txt>. The Washington, D.C. Metro Area's population is just slightly less than that of the entire state of Arizona, and exceeds that of Colorado, Oklahoma, Utah or Kansas. Indeed, it exceeds the combined populations of Montana, Wyoming, North and South Dakota and Nebraska; or Idaho and Nevada or New Mexico and Utah. See <http://www.census.gov/population/estimates/state/st-99-1.txt>

<sup>3</sup> Compare, *e.g.*, the cities and populations along the route from Washington, D.C. to New York City or Boston with those along the routes from Denver to Lincoln, Nebraska, Topeka, Flagstaff, or Salt Lake City; Flagstaff to Provo, or Phoenix to Albuquerque.

## **II. The Commission Should Extend Primary Status to Television Translator Stations.**

In *Establishment of a Class A Television Service* (NPRM in MM Docket No. 99-292), 14 FCC Rcd 16389, 16399 (1999), the Commission sought comment on whether it should extend Class A status to certain translator stations. While that proceeding has been terminated in the wake of passage of the *Community Broadcasters Protection Act of 1999*, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594-1501A-598 (1999), codified at 47 U.S.C. §336(f), the Commission stated committed to institute a new proceeding seeking comment on whether translators should be permitted to qualify for a form of primary status. *Establishment of a Class A Television Service (Report and Order in MM Docket No. 00-10)*, 15 FCC Rcd. 6355, 2000 FCC Lexis 1746 at para. 35 (2000). The Commission has not yet instituted that proceeding, but should do so now.

In view of the valuable service provided by television translator stations to America's rural populations with limited charitable and public resources, the Commission should afford television translator stations (and LPTV stations) equivalent protection to that accorded Class A Stations. The Commission should also accord those stations transmitting an analog or television broadcast signal consistent with Section 74.731 of the Rules, 47 C.F.R. §74.731, and applications for stations to transmit such signals, priority over stations transmitting or applicants proposing to transmit other types of signals or content, including data or wireless Internet services. Such non-television broadcast services should be secondary to television translator, LPTV and Class A television stations, as are other broadcast auxiliary services operating on

television channels.<sup>4</sup> Given the availability of other frequencies for transmission of data and wireless internet services, including MMDS frequencies, there is no need to displace or further limit the availability of broadcast television frequencies for basic and essential television translator services.

Respectfully submitted,

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By: \_\_\_\_\_

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<sup>4</sup> Secondary status would not be accorded digital stations transmitting such non-television broadcast signals in addition to and simultaneously with the transmission of television broadcast programming.